

**GRANT COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND,
P 19-0200)	DECISION AND
Reffett)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on September 11, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This is an application for a subdivision of five (5) parcels (201.26 acres) into nine (9) lots in the Agriculture zoning district of Grant County. Five lots will have residential capacity and the remaining four lots will be for agriculture use only.
2. The proponent is Mitchell Reffett, 13386 Rd. 4 NE, Moses Lake, WA 98837.
3. The project site is located on Road 7 NE, on both the east and west sides of K.7 NE, in a portion of Section 25, Township 20 North, Range 28 East, and a portion of Section 30, Township 20 North, Range 29 East, W.M., Grant County, WA. Parcel #s 31-3332-000, 31-3319-000, 31-3318-000, 31-3321-000, & 31-2335-000.
4. The zoning for the subject property is Agriculture.
5. The zoning for neighboring parcels is: To the north, Agriculture; to the south, Agriculture; to the east, Agriculture; to the west, Agriculture.
6. The Comprehensive Plan designation for the subject property is Irrigated Agriculture.
7. The project was reviewed for compliance with SEPA and a Determination of Non-Significance was issued by Grant County on August 16th, 2019.
8. The project site was reviewed for Critical Areas pursuant to GCC § 24.08 and was found to be located in a possible burrowing owl habitat area. After more detailed review of the site by staff it was determined that due to the already disturbed/developed nature of the site (land already platted, residential development, land actively farmed) no suitable native habitat was available on-site.
9. Information detailing this project was sent to agencies of jurisdiction for their review and comments on July 23, 2019. Property owners within 300 feet were also notified, and a Notice of Application was published in the Columbia Basin Herald as well as being posted on-site.

The following agencies provided comments:

- 9.1 Grant County Building & Fire Marshal responded on July 23, 2019
- 9.2 Grant County Public Works Department responded on July 30, 2019
- 9.3 Grant County Assessor's Office responded on July 26, 2019
- 9.4 East Columbia Basin Irrigation District responded July 26, 2019
- 9.5 WA State Department of Ecology responded August 6, 2019

10. The following agencies were notified but did not respond:

- 10.1 Grant County Fire District #5
- 10.2 Grant County Health District
- 10.3 Grant County P.U.D.
- 10.4 Grant County Sheriff's Office
- 10.5 Grant County Emergency Management
- 10.6 Grant County Noxious Weed Control Board
- 10.7 Grant County Auditor
- 10.8 Grant County Treasurer's Office
- 10.9 U.S. Bureau of Reclamation
- 10.10 Grant County International Airport

11. The application was determined to be technically complete on July 15, 2019.

13. The proposal was processed as a Type III Quasi-Judicial Decision, in accordance with Chapter 25.04 "Permit Application Review Procedures" of the Grant County Unified Development Code.

14. Subject to the Conditions of Approval below, the proposal appears to comply with Chapter 22.04 "Subdivisions and Plats" of the Grant County Unified Development Code.

15. The proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of the Grant County Unified Development Code.

16. The proposal was reviewed for compliance with SEPA. A Determination of Non-Significance (DNS) was issued by Grant County on August 16, 2019.

17. The project is not located within an Urban Growth Boundary.

18. The project is located in the Agriculture zoning district.

19. The density in the Agriculture zoning district is one dwelling unit per 40 acres.

20. The proposed residential lots will be served by individual septic systems.

21. The applicant has proposed to reduce the required Agriculture buffer on lots 7 and 8 from 100 feet to 50 feet. Grant County Code 23.12.070 (k)(3) allows a reduction up to 50%. Staff is supportive of this request.

22. The application was reviewed by agencies of jurisdiction, no comments were received that would prohibit approval of the proposed short plat.

23. No public comments were received on this proposal.

24. All parcels included in this subdivision were previously platted (Reffett Ridge SP & Word K's). This subdivision will supersede previous plats.
25. Water will be provided through an exempt withdrawal. The total groundwater withdrawal between the lots shall not exceed 5000 gallons per day. Supplemental irrigation water will be accessible to the lots through the irrigation district.
26. The proposed subdivision complies with the Criteria of Approval for a subdivision.
27. The proposed subdivision does meet the applicable requirements of UDC Chapter 22.04 "Subdivisions and Plats:"
 - 27.1 The proposed subdivision complies with GCC 22.04 Subdivisions and Plats. The proposed preliminary subdivision as conditioned will comply with all applicable standards found in Grant County Code Chapter 22.04.
28. The proposed subdivision does serve the public use and interest:
 - 28.1 This subdivision would serve the public use and interest. The plat would create additional residential lots at a rural density, which is one of the goals of the comprehensive plan and Unified Development Code. Through use of the County's 'Clustering Standards' the subdivision will also preserve ongoing agriculture through the dedication of open space which is also a goal of the Comprehensive Plan. The public interest is served when the goals and policies of the Comprehensive Plan are met.
29. The proposed subdivision does comply with the Comprehensive Plan, the Shoreline Master Program, the Zoning Code and other land use regulations, and SEPA:
 - 29.1 The proposal complies with the Comprehensive Plan as well as the Zoning Code, the proposed lots meets the density outlined in these documents (one dwelling unit per 40 acres). SEPA review was completed for the subdivision and a Determination of Non-Significance was issued by Grant County. Additionally, the proposal is not located within 200ft of any shoreline and is therefore not subject to the Shoreline Master Program.
30. The proposed subdivision does comply with the Health District requirements for sewage disposal and potable water supply:
 - 30.1 The subdivision proposed complies with Health District Requirements. The application materials for this subdivision were forwarded to the Health District for their review and comment. The District did not provide any comments on this proposal so it is assumed that their requirements are being met.

31. The proposed subdivision does contain accurate legal description of the lots being created, and the roads and easements therein:
 - 31.1 The subdivision does contain an accurate legal description. The application was reviewed by the Assessor's Office to ensure that a proper legal description was provided.
32. The proposed subdivision does comply with Grant County and, where applicable, all State Department of Transportation regulations pertaining to roads, utilities, drainage, access for emergency vehicles and other infrastructure improvements:
 - 32.1 As conditioned this subdivision will comply with Grant County road, utility, drainage and emergency vehicle access standards. The application materials were sent to Grant County Public Works as well as the Fire Marshal's Office, and the local Fire District. The site is not in the vicinity of a State Highway so their concurrence is not required.
33. The proposed subdivision does comply with all requirements of the United States Department of the Interior, the Bureau of Reclamation, and/or a recognized Irrigation District when the proposed preliminary is within the boundaries of an Irrigation District:
 - 33.1 This application does comply with all requirements of the USBR and applicable Irrigation Districts. The application materials were sent to the Bureau and the East Columbia Basin Irrigation District. The Districts comments have been incorporated into the proposed Conditions of Approval to ensure compliance.
34. The subdivision does comply with relevant City regulations pertaining to roads, utilities, drainage, access for emergency vehicles, and other infrastructure improvements for subdivision within an urban growth area;
 - 34.1 The proposed subdivision is not located within an Urban Growth Area and therefore does not have to comply with any City standards.
35. The subdivision does have A) adequate streets or roads, sidewalks or other public ways B) potable water supplies, sanitary wastes, and drainage ways C) open spaces, parks and playgrounds D) Schools and School grounds E) Landscaping, lighting—if required.
 - 35.1 The proposed subdivision has adequate provision for streets and roads, as well as potable water supply and sanitary waste provisions. Parks, playgrounds, and schools were not required for a subdivision of this scale and in this rural setting.
36. The Grant County Planning Department recommended approval of the requested permit, subject to the recommended conditions of approval.
37. An open record public hearing after due legal notice was held on September 11th, 2019.

38. The entire Planning Staff file was admitted into the record at the public hearing.
39. Appearing and testifying on behalf of the applicant was Jim Keyes. Mr. Keyes testified that he was the surveyor for this project and was an agent of the property owner and applicant and authorized to appear and speak on their behalf. He indicated that all of the parcels were owned by family members and part of the previously approved short plat. The purpose of this subdivision is to create a new lot 5, which will be used as a residence of one of the family members. Mr. Keyes indicated that the applicant agreed to all of the proposed conditions of approval. He stated that the reduced buffer was to allow buildable space on the newly created lot.
40. No member of the public appeared at the hearing.
41. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.
3. As conditioned, the proposal does conform to the standards specified in Grant County Code Section 23.12.
4. As conditioned, the use will comply with all required performance standards as specified in Grant County Code 23.08.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Conditional Use Permit Application P 19-0200 is hereby APPROVED and the buffer modification is also APPROVED both subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

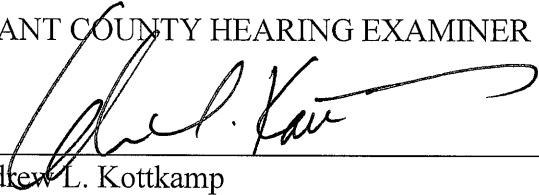
All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. The applicant shall comply with all requirements as deemed necessary by the Grant County Planning Department, including but not limited to:
 - a. The applicant/developer shall comply with all requirements of GCC 22.04, Article V "Final Subdivisions and Short Subdivisions" and other pertinent portions of Grant County Code.
 - b. Applicant shall ensure Best Management Practices are utilized to minimize the release of fugitive dirt and dust created from construction activities.
2. The applicant shall comply with all requirements as deemed necessary by Grant County Public Works, including but not limited to:
 - a. Provide a plat check fee of \$200.00 for major plats.
 - b. Where applicable provide crossing permits from the USBR for any access over a right-of-way.
 - c. An Approach Permit shall be obtained for County Road access or all lots.
 - d. Along the east property boundary line of lot 6 dedicate to Grant County an additional 20 feet for road Right-of-Way, extend it through the radius at Rd. 7 NE.
 - e. Reflect the County road Rights-of-Way fronting the property boundaries of the plat as being dedicated to Grant County, where applicable, per previous plat.
3. The applicant shall comply with all requirements as deemed necessary by the East Columbia Basin Irrigation District, including but not limited to:
 - a. Plat fee of \$300.00 must be paid prior to signing the final plat.
 - b. There is a \$50.00 lot fee for all lots retaining their water allotment that will need to be paid prior to signing the final plat.
 - c. The EL18 is a pipeline through a portion of this plat, the final plat shall include the following note: "Underground Irrigation and Drainage Facilities, Buildings and other permanent structures are not to be erected above underground Columbia Basin Project irrigation and drainage facilities. Any encroachments onto CBP rights-of-way including but not limited to temporary improvements such as paving, fencing and landscaping require a District Permit.
 - d. Installation of Irrigation facilities to convey irrigation water from the District's delivery point to each parcel containing irrigable land must be completed prior to the filing of the final plat. Irrigation easements must be dedicated to all lots retaining water allotments.

4. The applicant shall comply with all requirements as deemed necessary by the Grant County Assessor's Office, including but not limited to:
 - a. All owners must fill out current use application and farm management plan for all new 9 lots. This must be completed one week prior to recording final plat.

Dated this 12 day of September, 2019.

GRANT COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Grant County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.